

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF TENNESSEE (KNOXVILLE)

IN RE: TONJA COGDILL

Case No. 3:20-bk-31764-SHB

Chapter 13

Debtor.

Hon. JUDGE BAUKNIGHT

MOTION FOR RELIEF FROM THE AUTOMATIC STAY

NOTICE OF HEARING

Notice is hereby given that:

A hearing will be held on the Motion for Relief from the Automatic Stay on September 2, 2020 at 9:00 a.m. in Courtroom 1-C located at the United States Bankruptcy Court, Howard H. Baker Jr. U.S. Courthouse, 800 Market Street, Knoxville, Tennessee 37902.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the court to grant the relief requested, you or your attorney must attend this hearing. If you do not attend the hearing, the court may decide that you do not oppose the relief sought in the Motion for Relief from the Automatic Stay and may enter an order granting that relief.

Given the current public health crisis, hearings may be telephonic only. Please check the court's website www.tneb.uscourts.gov prior to the hearing for instructions on whether to appear in person or by telephone. Information on how to call in and participate is also posted on the website.

COMES NOW Secured Claimant 21st Mortgage Corporation ("21st Mortgage" or "Secured Claimant"), by and through its undersigned counsel, and hereby moves the Court to enter an Order granting Motion for Relief from the Automatic Stay against Tonja Cogdill ("Debtor") and pursuant to 11 U.S.C. § 362, Federal Rule of Bankruptcy Procedure 4001, and other applicable provisions

of the United States Bankruptcy Code and Federal Rules of Bankruptcy Procedure, and in support thereof would show Court as follows:

1. Debtors filed for relief under Chapter 13 of the Bankruptcy Code on July 23, 2020.
2. 21st Mortgage is a party in interest in this case as it is a secured creditor of Debtor.
3. On the date of filing of the petition in this case, the Debtor was indebted to Secured Claimant for the sum of \$40,606.63 plus accruing interest and other charges, on Account no. xxxx1871 (the “Debt”).
4. Secured Claimant filed a claim in the amount of \$40,606.63 with this Court on August 11, 2020 Claim No. 2.
5. 21st Mortgage is the holder of a secured claim against the Debtor as more fully described in the Consumer Loan Note, Security Agreement and Disclosure Statement dated November 6, 2015 (the “Agreement”). A true and correct copy of the Agreement is attached hereto, incorporated herein, and labeled **Exhibit 1**.
6. By virtue of the Agreement, Movant holds a security interest in the following property: 2016 Fleetwood 48x28 Manufactured Home, Serial No. FLE250TN1539221AB located at 3245 Old Mill Branch Road, Sevierville, Tennessee (the “Affected Collateral”).
7. 21st Mortgage’s lien is duly noted on the certificate of title to the Affected Collateral, a true and correct copy of which is attached hereto, incorporated herein, and labeled **Exhibit 2**.
8. Debtor defaulted on her payment obligations under the Agreement, resulting in 21st Mortgage initiating a state court action to recover possession of the Affected Collateral on or about December 3, 2019 in the General Sessions Court of Sevier County, Tennessee; Case Number 19-C-98916.

9. 21st Mortgage was granted judgment for possession of the Affected Collateral on June 29, 2020 (the “Judgment”). A true and correct copy of the Judgment is attached hereto, incorporated herein, and labeled **Exhibit 3**.

10. Debtor has defaulted on her payment obligations in an amount not less than \$8,772.75

9. Debtor is unable to provide Secured Creditor with adequate protection.

10. Debtor does not appear to have any equity in the Affected Collateral.

11. The Affected Collateral is not necessary to an effective reorganization and may be burdensome or of no value to the estate.

12. Secured Claimant requests that Rule 4001(a)(3) not apply to this Motion, thus permitting it to immediately enforce and implement an order granting relief from the automatic stay.

WHEREFORE, PREMISES CONSIDERED, Secured Claimant prays that the automatic stay in 11 U.S.C. §362 is terminated with respect to the Secured Claimant and its Affected Collateral in order that Secured Claimant may proceed with requesting a Writ of Possession in the replevin action filed in the General Sessions Court of Sevier County to recover the Affected Collateral, and may dispose of the Affected Collateral under applicable non-bankruptcy law, and for such other relief as may be appropriate, and the provisions of Rule 4001(a)(3) be hereby waived.

Respectfully submitted,

/s/ Philip L. Robertson
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Counsel for Secured Claimant

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of August 2020 that a true and correct copy of the foregoing Motion for Relief from the Automatic Stay containing the Notice of Hearing, actual copies of the attachments and exhibits to the Motion for Relief from the Automatic Stay, and the proposed Order has been filed electronically via the Live Document Filing System of the U.S. Bankruptcy Court to all those upon whom service is required:

Charles C. Harrison, Jr.
The Harrison Firm
227 Court Avenue
Sevierville, TN 37862
Counsel for Debtor

Gwendolyn M. Kerney
Chapter 13 Trustee
P.O. Box 228
Knoxville, TN 37901
Trustee

United States Trustee
800 Market Street, Ste 114
Howard H. Baker Jr. U.S. Courthouse
Knoxville, TN 37902
U.S. Trustee

I hereby certify that on this the 12th day of August 2020 a true and correct copy of the foregoing Motion for Relief from the Automatic Stay containing the Notice of Hearing, actual copies of the attachments and exhibits to the Motion from Relief from the Automatic Stay, and the proposed Order, which was filed by 21st Mortgage Corporation, was served via first class, U.S. Mail, postage prepaid on the following:

Tonja Cogdill
3245 Old Mill Branch Road
Sevierville, TN 37876

/s/ Philip L. Robertson